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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,925	03/24/2004	Paul Gait	N1220	5145
23456	7590	02/16/2006		
WADDEY & PATTERSON 1600 DIVISION STREET, SUITE 500 NASHVILLE, TN 37203			EXAMINER CHAMBERS, MICHAEL S	
			ART UNIT 3711	PAPER NUMBER

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

58

Office Action Summary	Application No. 10/807,925	Applicant(s) GAIT, PAUL	
	Examiner Mike Chambers	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 6 is objected to because of the following informalities:

In line 3: it would appear "any upper" should be --a upper--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 –12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (2075372). Taylor discloses

a throat (9) for receiving a handle; a scoop (14) distal from the throat; a pair of sidewalls (7) extending from the throat to the scoop each having an upper and lower portion; a ball stop (12) adjacent the throat; and a pair of floating ribs (5) corresponding to each of the pair of sidewalls, each of the floating ribs having a first end and a second end separated by a middle portion wherein the first end is joined proximal the throat and the second end is joined proximal the side wall and a segment of the middle portion is not attached to the sidewall and rises above the throat distal from the upper portion (fig

1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2 : Taylor discloses a middle portion is attached to neither the sidewall nor the throat (fig 1).

As to claim 3 : Taylor discloses a space between the floating rib and the sidewall (fig 1).

As to claim 4 : Taylor discloses a greater distance between the inner portion of the floating ribs than the distance between the sidewalls (fig 1, 3).

As to claim 5 : Taylor discloses an apex further from the lower portion than the upper portion (fig 1,3).

As to claims 6 and 10 : See claim 1 rejection.

As to claims 7 and 11 : Taylor discloses a middle portion unattached to the lacrosse head (5, fig 1)

As to claims 8 and 12 : Taylor discloses an open space (fig 2)

As to claim 9 : Taylor discloses an apex (fig 2)

As to claim 14 : Taylor discloses a greater distance between the inner portion of the floating ribs than the distance between the sidewalls (fig 1, 3).

Response to Arguments

Applicant's arguments filed 12/6/05 have been fully considered but they are not persuasive. Although the amended claims attempt to avoid the art, it is not successful. The additional limitations, the inclusion of an upper and lower portion and a middle

Art Unit: 3711

portion rising above the throat and distal from the upper portion does not avoid the cited art. The Taylor art shows a sidewall (7) which has an upper (top) and lower (bottom) portion. Taylor also has a middle portion that rises above the throat (5).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 7, 2006

Michael Chambers
Examiner
Art Unit 3711



EUGENE KIM
SUPERVISORY PATENT EXAMINER